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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 CHRISTOPHER M. SCALES,

9 Plaintiff,

10 v.

11 VINCE GOLDSMITH, *et al.*,

12 Defendants.

Case No. C08-5480BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation of the
14 Honorable J. Kelley Arnold, United States Magistrate Judge (Dkt. 16). The Court having
15 considered the Report and Recommendation, the parties' failure to file objections, and the
16 remaining record, does hereby find and order:

- 17 (1) The Court adopts the Report and Recommendation; and
18 (2) Defendants' motion to dismiss (Dkt. 14) is **DENIED WITHOUT**
19 **PREJUDICE**. Plaintiff is directed to file an amended complaint no later than
20 February 23, 2009.

21 DATED this 20th day of January, 2009.

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25 BENJAMIN H. SETTLE
26 United States District Judge
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ORDER